

FILED

APR 15 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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Office of Disciplinary Counsel

7
8 IN THE SUPREME COURT OF THE STATE OF MONTANA

9 No. 09-0212

10 * * * * *

11 IN THE MATTER OF ARTHUR ROY) ODC File No. 09-080
12 TADEWALDT,)
13) **PETITION FOR**
14 An Attorney at Law,) **DETERMINATION**
15 Respondent.) **REGARDING LAWYER**
16) **CONVICTED OF A**
17) **CRIMINAL**
18) **OFFENSE**

19 Pursuant to Rule 23B of the *Rules for Lawyer Disciplinary Enforcement*
20 (2002), the Office of Disciplinary Counsel for the State of Montana ("ODC"),
21 hereby petitions the Court as follows:

22 1. Arthur Roy Tadewaldt, hereinafter referred to as Respondent, was
23 admitted to the practice of law in the State of Montana in 1976, at which time he
24 took the oath required for admission, wherein he agreed to abide by the Rules of
25 Professional Conduct, the Disciplinary Rules adopted by the Supreme Court, and

1 the highest standards of honesty, justice and morality, including but not limited to,
2 those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana Code Annotated.

3
4 2. The Montana Supreme Court has approved and adopted the *Montana*
5 *Rules of Professional Conduct* (MRPC), governing the ethical conduct of attorneys
6 licensed to practice in the State of Montana, which Rules were in effect at all times
7 mentioned in this Petition.

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9 3. The Clerk of District Court for the Montana Eighth Judicial District
10 Court, Cascade County, has provided ODC with a certified copy of the Judgment
11 of Conviction and Sentencing Order in *State v. Tadewaldt*, Cause No. CDC-08-
12 172(d). (Exhibit A attached hereto.)

13
14 4. Respondent was found guilty at trial of committing the offenses:

- 15 A. Assault with a Weapon in violation of § 45-5-213(1)(a), MCA, a
16 felony (Count I);
17
18 B. Tampering with a Witness in violation of § 45-7-06, MCA, a felony
19 (Count II); and,
20
21 C. False Reports to Law Enforcement in violation of § 45-7-205(1)(b),
22 MCA, a misdemeanor (Count III).

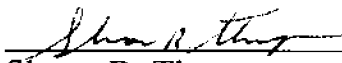
23 5. On March 19, 2009, Respondent was sentenced to fourteen (14) years to
24 Montana State Prison for Assault with a Weapon, one (1) year to Montana State
25 Prison for Tampering with a Witness, and six (6) months in the Cascade County

1 Detention Center for False Reports to Law Enforcement. All sentences to run
2 consecutively.

3
4 WHEREFORE, the Office of Disciplinary Counsel prays as follows:

- 5 1. That, pursuant to Rule 23 of the Montana Rules for Lawyer
6 Disciplinary Enforcement, the Court determine whether the criminal
7 offenses of which Respondent has been convicted affect the
8 Respondent's ability to practice law;
9
10 2. If the Court determines that the convictions affect the Respondent's
11 ability to practice law, that the Court, pursuant to Rule 23B, issue an
12 order immediately suspending the lawyer from the practice of law
13 pending final disposition of a disciplinary proceeding predicated upon
14 the conviction and direct Disciplinary Counsel to prepare and file a
15 formal complaint against the Respondent predicated upon the
16 convictions, and,
17
18 3. For such other and further relief deemed necessary and proper.

19
20 RESPECTFULLY SUBMITTED this 14th day of April, 2009.

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23 
24 Shaun R. Thompson
25 Disciplinary Counsel

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4 MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

5
6 STATE OF MONTANA,

7 Plaintiff,

Cause No. CDC-08-172(d)

8 vs.

9 ARTHUR ROY TADEWALDT,

JUDGMENT OF CONVICTION
AND SENTENCING ORDER

10 Defendant.

11
12 On March 19, 2009, this matter came before the Court for the
13 sentencing of Defendant Arthur Roy Tadewaldt. The Defendant
14 appeared in court with court-appointed counsel, Matthew T.
15 McKittrick. The State of Montana was represented by Deputy
16 County Attorney Joel Thompson.

17 The Defendant previously was found guilty at trial of
18 committing the following offenses:

- 19 (A) Count I: Assault with a Weapon, a felony in violation
20 of § 45-5-213(1)(a), MCA;
- 21 (B) Count II: Tampering with a Witness, a felony in
22 violation of § 45-7-206, MCA; and,
- 23 (C) Count III: False Reports to Law Enforcement, a
misdemeanor in violation of § 45-7-205(1)(b), MCA.

24 Pursuant to § 46-18-11, MCA, the Montana Department of
25 Corrections, by and through Probation Officer Susan F. Carroll of
26 the Adult Probation and Parole Division, conducted a pre-sentence
27 investigation and filed and served a report of such investigation
28

upon the Court and parties prior to sentencing. The State and the Defendant made sentencing recommendations to the Court. The Court gave the Defendant the opportunity to address the Court prior to sentencing. The parties asserted no legal reason the Court should not proceed with sentencing.

In determining the appropriate sentence in this case, the Court has considered: (1) the correctional and sentencing policies of the policy of the State of Montana; (2) the unique facts and circumstances of this case as set forth in the pleadings and prior proceedings before this Court; (3) Defendant's prior criminal history; (4) Defendant's additional unique history and circumstances as set in the pre-sentence investigation report filed in this matter; (5) the terms of the plea agreement, if any, between Defendant and the State; and (6) the Defendant's individual characteristics, circumstances, needs and potential for rehabilitation and to return to productive and responsible status as a citizen of this State.

THEREFORE, pursuant to Title 46, Chapter 18, MCA, the Court hereby orders, adjudges, and decrees as follow:

A. Count I: Assault with a Weapon, a felony, in violation of § 45-5-213(1)(a), MCA.

In regard to Count I: Assault with a Weapon, Defendant is hereby sentenced to serve a fourteen (14) year term of commitment to the Montana State Prison. This sentence shall run consecutive to Defendant's sentences on Counts II and III.

B. Count II: Tampering with a Witness, a felony, in violation of § 45-7-206, MCA.

In regard to Count II: Tampering with a Witness, Defendant is hereby sentenced to serve a one (1) year term of commitment to the Montana State Prison. This

sentence shall run consecutive to Defendant's sentence on Count I and concurrent to Defendant's sentence on Count III.

C. Count III: False Reports to Law Enforcement, a misdemeanor, in violation of § 45-7-205(1)(b), MCA.

In regard to Count III: False Reports to Law Enforcement, Defendant is hereby sentenced to serve a six (6) month term of commitment to the Cascade County Detention Center. This sentence shall run consecutive to Defendant's sentence on Count I and concurrent to Defendant's sentence on Count II.

D. Miscellaneous.

The Defendant shall receive credit for 35 days time served prior to sentencing in this matter.

IT IS FURTHER ORDERED that any bond posted in this matter is hereby exonerated.

FINALLY, pursuant to § 46-18-116, MCA, in the event that this written judgment conflicts with the Court's prior oral pronouncement of sentence or other disposition, the Defendant or the prosecutor in the county in which the sentence was imposed may, within 120 days after filing of the written judgment, request that the Court modify the written judgment to conform to the oral pronouncement. Pursuant to § 46-18-116(2), MCA, the Court shall, following a hearing, modify the written judgment to conform to the oral pronouncement. Pursuant to § 46-18-116(2), MCA, Defendant must be present at the hearing unless Defendant waives the right to be present or elects to proceed pursuant to § 46-18-115, MCA. Pursuant to § 46-18-116(2), MCA, Defendant and the State waive the right to request modification of the written judgment if a request for modification of the written judgment is not timely filed within 120 days after the filing date of the

written judgment in the above-captioned matter.

In contrast, pursuant to § 46-18-116(3), MCA, the Court may correct a factually erroneous sentence or judgment at any time. However, pursuant to § 46-18-116(3), MCA, the parties must address any alleged illegal sentence in the manner otherwise provided for by law for appeal and postconviction relief.

DATED this 31st day of March, 2009.



DIRK M. SANDEFUR
DISTRICT JUDGE

cc: County Attorney/Joel Thompson
Defense Counsel/Matthew T. McKittrick
Defendant, c/o counsel
Adult Probation and Parole/Susan F. Carroll
Cascade County Sheriff's Office (2 certified copies)
Great Falls Police Department
Montana State ID
Montana State Prison
Montana Department Corrections
Victim, c/o County Attorney

STATE OF MONTANA } SS
County of Cascade
I hereby certify that the instrument to
which this is attached is a true
copy of the original filed for record
in the District Court of Cascade County, Montana.
Witness my hand and seal of the
District Court of Cascade County, Montana
this 31st day of March, 2009.
RUTH REEVES, Clerk of Court

By _____ Deputy Clerk